

REMARKS

In the final Office Action, the Examiner rejected claims 1-17 and 42-58 under 35 U.S.C. § 102(e) as anticipated by Shirai et al. (U.S. Patent No. 5,912,877); and also rejected claims 8-10 and 49-51 under 35 U.S.C. § 103(a) as unpatentable over Shirai et al. in view of Goldszmidt et al. (U.S. Patent No. 6,195,680). The Examiner allowed claims 18-41 and 59-82.

By this Amendment, Applicants propose canceling claims 23, 24, 27, 28, 32-36, 39, and 60-82 without prejudice or disclaimer and amending claims 1, 12, 14-16, 18-22, 25, 26, 29-31, 37, 38, 40-59 to improve form. Applicants appreciate the Examiner's identification of allowable subject matter, but respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102 and 103. Claims 1-22, 25, 26, 29-31, 37, 38, and 40-59 are pending.

In section I of the final Office Action, the Examiner rejected claims 1-17 and 42-58 under 35 U.S.C. § 102(e) as allegedly anticipated by Shirai et al. Applicants respectfully traverse the rejection with regard to the claims as amended herein.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention either expressly or impliedly. Any feature not directly taught must be inherently present. In other words, the identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. § 2131. Shirai et al. does not disclose or suggest the combination of features recited in claims 1-17 and 42-58.

Amended independent claim 1, for example, is directed to a datagram relaying apparatus. The datagram relaying apparatus comprises a plurality of protocol terminating units and a destination determining processor. The destination determining processor comprises a path selecting section to determine a transfer destination route for a stream of packets received from

any of the protocol terminating units based on a combination of a stream identifier and a multi-path identifier associated with the received stream of packets. The path selecting section is configured to determine whether transfer of the received stream of packets to the transfer destination route is in an inhibition state, and select another transfer destination route when the transfer of the stream of packets to the transfer destination route is in the inhibition state.

Shirai et al. does not disclose or suggest the combination of features recited in claim 1. For example, Shirai et al. does not disclose or suggest a path selecting section to determine a transfer destination route for a stream of packets received from any of the protocol terminating units based on a combination of a stream identifier and a multi-path identifier associated with the received stream of packets. Instead, Shirai et al. discloses transferring data to a standard transit line corresponding to data link identification information (col. 10, lines 12-15) or a backup transit line when the standard transit line is congested (col. 7, lines 19-27).

Because Shirai et al. does not disclose or suggest a path selecting section to determine a transfer destination route for a stream of packets received from any of the protocol terminating units based on a combination of a stream identifier and a multi-path identifier associated with the received stream of packets, Shirai et al. cannot disclose or suggest that the path selecting section is configured to determine whether transfer of the received stream of packets to the transfer destination route is in an inhibition state, and select another transfer destination route when the transfer of the stream of packets to the transfer destination route is in the inhibition state, as also required by claim 1.

For at least these reasons, Applicants submit that claim 1 is not anticipated by Shirai et al. Claims 2-17 depend from claim 1 and are, therefore, not anticipated by Shirai et al. for at least

the reasons given with regard to claim 1. Claims 2-17 are also not anticipated by Shirai et al. for reasons of their own.

For example, Shirai et al. does not disclose or suggest the features recited in claims 8-10 and 13. The Examiner did not address the features of claims 8-10 and 13. Therefore, the Examiner did not establish a proper case of anticipation with regard to claims 8-10 and 13. For at least these additional reasons, claims 8-10 and 13 are not anticipated by Shirai et al.

Amended independent claim 42 recites features similar to features recited in claim 1. Claim 42 is, therefore, not anticipated by Shirai et al. for at least reasons similar to reasons given with regard to claim 1. Claims 43-58 depend from claim 42 and are, therefore, not anticipated by Shirai et al. for at least the reasons given with regard to claim 42. Claims 43-58 are also not anticipated by Shirai et al. for reasons of their own.

For example, Shirai et al. does not disclose or suggest the features recited in claims 49-51. The Examiner did not address the features of claims 49-51. Therefore, the Examiner did not establish a proper case of anticipation with regard to claims 49-51. For at least these additional reasons, claims 49-51 are not anticipated by Shirai et al.

In section II of the final Office Action, the Examiner also rejected claims 8-10 and 49-51 under 35 U.S.C. § 103(a) as allegedly unpatentable over Shirai et al. in view of Goldszmidt et al. Applicants respectfully traverse the rejection.

Claims 8-10 depend from claim 1 and claims 49-51 depend from claim 42. Without acquiescing in the Examiner's rejection, Applicants submit that the disclosure of Goldszmidt et al. does not cure the deficiencies in the disclosure of Shirai et al. identified above with regard to claims 1 and 42. Therefore, claims 8-10 and 49-51 are patentable over Shirai et al. and

Goldszmidt et al., whether taken alone or in any reasonable combination, for at least the reasons given with regard to claims 1 and 42.

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of the application and the timely allowance of pending claims 1-22, 25, 26, 29-31, 37, 38, and 40-59.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-22, 25, 26, 29-31, 37, 38, and 40-59 in condition for allowance.

If the Examiner does not believe that all pending claims are now in condition for allowance, the Examiner is urged to contact the undersigned to expedite prosecution of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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